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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/541,281	02/03/2006	Gerrit Jan Nieuwenhuis	MULLE45.001APC	6247
20995 7590 11/04/2008 KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614				
EXAMINER				
BUL, LUAN KIM				
ART UNIT		PAPER NUMBER		
3728				
NOTIFICATION DATE		DELIVERY MODE		
11/04/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com
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Office Action Summary

Application No.

10/541,281

Applicant(s)

NIEUWENHUIS, GERRIT JAN

Examiner

Luan K. Bui

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 September 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1.4.6-15 and 21 is/are pending in the application.
4a) Of the above claim(s) 7-15 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1.4.6 and 21 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 4 and 6 are finally rejected under 35 U.S.C. 102(b) as being anticipated by Sengewald (4,779,996). Sengewald discloses a bundle of flattened foil bags (11) having a generally uniform thickness with each bag comprising a front portion having an upper edge (17), a rear portion (14), a sealed bottom, a plurality of first incisions (13, 13a) extending entirely through the foil bag with the first incisions having a closed shape and a plurality of second incisions in the front portion (17, Figure 2) and extending between the upper edge and the plurality of first incisions and the second incisions having an essentially straight shape. The bags of Sengewald are inherently capable to be supported on a pin support of a foil bag opening machine.

As to claim 4, Sengewald discloses the second incisions do not extend into the rear portion (Figure 2 shows the rear portion includes a bridge (16) disposed between the opening (13) and the slot (15) which is not the same as the front portion).

As to claim 6, Sengewald further discloses front side portions (side folds) having an upper edge and a plurality of third incisions extending between the upper edge of the front side portions and the plurality of first incisions.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 4, 6 and 21 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Wilfong, Jr. (4,995,860) in view of Sengewald (4,779,996) or Conrad et al. (5,062,716; hereinafter Conrad'716). Wilfong discloses in the embodiment of Figures 11-12, a bundle of flattened foil bags (10, 11) with each bag comprising a front portion (13) having an upper edge, a rear portion (14), a sealed bottom (17), a plurality of first incisions (20) extending entirely through the foil bag and a plurality of second incisions (21) in the front portion and extending between the upper edge and the plurality of first incisions and the second incisions having an essentially straight shape. The bag of Wilfong is capable to be supported on a pin support of a foil bag opening machine. Wilfong also discloses the other claimed limitations except for the first incisions comprise a closed shape.

Wilfong further discloses a bag in the embodiment of Figure 19 comprises a plurality of first incisions having a closed shape. Sengewald teaches a bundle of flattened foil bags (11) having a generally uniform thickness with each bag comprising a front portion having an upper edge (17), a rear portion (14), a sealed bottom, a plurality of first incisions (13, 13a) extending entirely through the foil bag with the first incisions having a closed shape and a plurality of second incisions in the front portion (17, Figure 2) and extending between the upper edge and the plurality of first incisions and the second incisions having an essentially straight shape.

Conrad'716 shows a bag (3) in the embodiment of Figure 5 comprising a plurality of first incisions (10) and the first incisions having a closed shape.

Therefor, it would have been obvious to one having ordinary skill in the art at the time the invention was made in view of the embodiment of Figure 19 of Wilfong or Sengewald or Conrad'716 to modify the plurality of first incisions in the embodiment of Figures 11-12 of Wilfong so the plurality of first incisions comprise a closed shape to facilitate through a pin support and the selection of the specific shape for the first incisions such as the shape of Wilfong or Sengewald or Conrad'716 would have been an obvious matter of design choice inasmuch as the resultant structures will work equally well.

As to claims 4, 6 and 21, Wilfong further discloses the second incisions do not extend into the rear portion (Figure 12 and column 8, lines 8-15) and front side portions having a plurality of third incisions extending between the upper edge of the front side portions and the plurality of first incisions.

Response to Arguments

Applicant's arguments with respect to all pending claims have been considered but are deemed to be moot in view of the new grounds of rejection.

Applicant's arguments with respect to Wilfong in the remarks are noted. They are not persuasive because it is old and conventional practice of providing the first incisions having a closed shape as taught by Wilfong in the embodiment of Figure 19 or Sengewald or Conrad'716.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is 571-272-4552. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

lkb
November 1, 2008

/Luan K. Bui/
Primary Examiner
Art Unit 3728